

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
Wheeling

**BRITT JARRIEL HAMMONS,**

Petitioner,

v.

**Civil Action No. 5:22-CV-164**  
**Judge Bailey**

**MR. BROWN,**

Respondent.

**ORDER ADOPTING REPORT AND RECOMMENDATION**

The above-styled case came before this Court for consideration of United States Magistrate Judge James P. Mazzone's Report and Recommendation [Doc. 23], filed on January 19, 2023. Therein, Magistrate Judge Mazzone recommends that respondent's Motion to Dismiss for Failure to State a Claim [Doc. 18] should be granted and petitioner's petition [Doc. 1] should be denied and dismissed without prejudice.

This Court is charged with conducting a *de novo* review of any portion of the magistrate judge's report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636(b)(1). However, absent prompt objection by a dissatisfied party, it appears that Congress did not intend for the district court to review the factual and legal conclusions of the magistrate judge. *Thomas v. Arn*, 474 U.S. 140 (1985). Additionally, any party who fails to file timely, written objections to the magistrate judge's report pursuant to 28 U.S.C. § 636(b)(1) waives the right to raise those objections at the appellate court level. ***United***

**States v. Schronce**, 727 F.2d 91 (4th Cir. 1984), *cert. denied*, 467 U.S. 1208 (1984). No objections have been filed to the magistrate judge's report and recommendation.

A review of the record indicates that the magistrate judge's report accurately summarizes this case and the applicable law. Accordingly, the magistrate judge's report and recommendation [Doc. 23] is **ORDERED ADOPTED**, respondent's Motion to Dismiss for Failure to State a Claim [Doc. 18] is **GRANTED**, and petitioner's petition [Doc. 1] is **DENIED** and **DISMISSED WITHOUT PREJUDICE**.

This Court further **DIRECTS** the Clerk to **STRIKE** this case from the active docket of this Court.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* petitioner.

**DATED:** February 13, 2023.



JOHN PRESTON BAILEY  
UNITED STATES DISTRICT JUDGE